

RESOLUTION NO. 2009-15

A RESOLUTION OF THE CITY COUNCIL ~~OF~~ THE CITY
~~OF~~ LODI RESCINDING RESOLUTION NO. 2008-238,
THEREBY RESCINDING THE CERTIFICATION OF THE
FINAL REVISED ENVIRONMENTAL IMPACT REPORT
(EIR-03-01) FOR THE LODI SHOPPING CENTER;
STATE CLEARINGHOUSE NO. 2003042113

WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 West Kettleman Lane, more particularly described as Assessor's Parcel numbers 058-030-08 and 058-030-02 and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on April 14, 2003; and

WHEREAS, the Draft EIR (DEIR) was released on August 5, 2004, for circulation; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at this hearing; and

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a public hearing before said Commission on December 8, 2004; and

WHEREAS, the Planning Commission of the City of Lodi reviewed and certified the FEIR prepared for the project; and

WHEREAS, that certification and approval was appealed to the Lodi City Council; and

WHEREAS, the Lodi City Council, on appeal, reviewed and certified the FEIR prepared for the project (Resolution No. 2005-26, February 3, 2005); and

WHEREAS, the Lodi City Council rescinded the certification of the FEIR on May 3, 2006, pursuant to Superior Court Order of December 19, 2005, which order directed revisions to be made to the EIR; and

WHEREAS, in response to the Court Order, the City prepared a NOP of the Revisions to the EIR (REIR) and distributed it to reviewing agencies on September 25, 2006; and

WHEREAS, the Draft Revisions to the EIR (DREIR) was released and circulated on October 17, 2007, for public comment and review; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on November 14, 2007. Public comments on the DREIR were received at this hearing; and

WHEREAS, a Final Revisions to the EIR (FREIR), which includes the DREIR as revised and responses to all public comments on the DREIR submitted prior to the expiration of the comment period, was prepared and released to the public and commenting agencies on August 26, 2008; and

WHEREAS, on October 8, 2008, the Planning Commission of the City of Lodi held a hearing on the adequacy of the FREIR, and the Planning Commission declined to certify the FREIR; and

WHEREAS, Wal-Mart Stores, Inc. and Browman Development Company have each filed timely appeals of the Planning Commission's denial of the FREIR to the City Council; and

WHEREAS, the City Council of the City of Lodi, after ten (10) days published notice, held a public hearing on December 10, 2008, to consider the appeal of the Planning Commission's decision to certify the FREIR; and

WHEREAS, the Lodi City Council did on December 10, 2008, certify the FREIR (EIR-03-01) relating to the Lodi Shopping Center project as adequate; and

WHEREAS, the City Council received a Notice to Cure an alleged Brown Act violation arising out of its public hearing on the FREIR on December 10, 2008, and at its closed session on January 13, 2009, the City Council requested that staff set this matter to decertify the FREIR and reset the public hearing, as an expedient to avoid litigation, and not a concession of a Brown Act violation; and

WHEREAS, staff recommends that the Council set the public hearing for a Special Meeting at Hutchins Street Square, Charlene Powers-Lange Theater, 125 South Hutchins Street, Lodi on March 11, 2009.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference; and
2. For the reason stated above, the Lodi City Council hereby rescinds Resolution No. 2008-238, thereby rescinding certification of the FREIR for the Lodi Shopping Center Project located at 2640 West Kettleman Lane; and

3. That a Public Hearing be set for a special meeting on March 11, 2009, at Hutchins Street Square, Charlene Powers-Lange Theater, 125 South Hutchins Street, Lodi, California, to consider the appeals of Browman Development Company and Wal-Mart Stores, Inc. regarding the decision of the Planning Commission to not certify the Final Revised EIR.

Dated: February 4, 2009

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I hereby certify that Resolution No. 2009-15 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Katzakian, Mounce,
and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL
City Clerk

2009-15